

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of CHASE ALM and TYEE ALM,  
Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JERALD ALM,

Respondent-Appellant,

and

MAYGEN ALM,

Respondent.

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In the Matter of CHASE ALM, TYEE ALM, and  
PAIGE MIANECKI, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MAYGEN ALM,

Respondent-Appellant,

and

JERALD ALM,

Respondent.

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UNPUBLISHED  
March 10, 2009

No. 286810  
Dickinson Circuit Court  
Family Division  
LC No. 07-000516-NA

No. 286811  
Dickinson Circuit Court  
Family Division  
LC No. 07-000516-NA

Before: Sawyer, P.J., and Zahra and Shapiro, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to the minor children<sup>1</sup> pursuant to MCL 712A.19b(3)(g) (failure to provide proper care) and (j) (risk of harm if child returned). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). “If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child’s best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A.19b(5).<sup>2</sup> We review the trial court’s findings of fact, and its determination regarding the children’s best interests, for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(J).

The trial court did not clearly err when it based its termination order on subsection 19b(3)(g). Starting in 2006, prevention services were provided to the family that included home-based parenting education, counseling, and marital counseling. In addition, respondents received financial assistance with their utility bills (e.g., in 2006, the Salvation Army and St. Vincent DePaul paid monies to DTE Energy on respondents’ behalf). Despite these efforts, the water and electrical utilities were turned off simultaneously at one point in 2007 and, in July 2007, the family home was found to be filthy, with animal fecal matter in every room except a secured bedroom. A petition seeking temporary custody of the children was authorized, and the children were allowed to remain in respondents’ care under the supervision of the Department of Human Services (“DHS”). In September 2007, the family was evicted for the fifth time. According to a parent aide, respondent father’s jobs did not last long and respondent mother was unemployed. When the family moved into a new rental home in November 2007, DHS paid \$350 to have the gas turned on and the Department of Housing and Urban Development paid the rent. Services were continued, including Wraparound, and the Wraparound coordinator testified that respondents continued to struggle with budgeting issues, relied on others to pay their bills for them, were not forthright about their debt, and were uncooperative when it came to doing what was required of them. In January 2008, a court caseworker overheard a profane conversation between respondents that was directed at one of the children. In February 2008, the court caseworker saw dirty dishes “stashed” in a cupboard. In May 2008, despite a court order not to have pets in the home, evidence of the presence of one or more cats was observed by the DHS

<sup>1</sup> Respondent father’s rights to Chase and Tyee, and respondent mother’s rights to Paige, Chase, and Tyee, were terminated.

<sup>2</sup> This statutory provision was amended effective July 11, 2008, which was the date the termination hearing concluded in this case. In making its best interests determination, the trial court found that not only was termination of respondents’ rights not contrary to the children’s best interests, but the evidence that termination was in their best interests was “overwhelming.” Therefore, the trial court correctly evaluated the children’s best interests under the applicable amended version of MCL 712A.19b(5).

caseworker and the court caseworker; both of them also viewed signs that the house was unsanitary. Also in May 2008, the home's gas utility was turned off and it was discovered that respondents owed \$2,674.31 to DTE Energy. Following an emergency removal hearing held on May 19, 2008, Chase and Tyee were removed from the home (physical custody of Paige had been granted in October 2007 to her biological father, who was not involved in this protective proceeding), and a supplemental petition seeking termination was filed. At the termination hearing, respondent mother admitted that the home's electricity had been turned off the week before and that she had previously told the court that she owed \$150 on her gas bill but she now needed \$200 more. Based on this evidence, the court properly found a past failure by respondents to provide proper care or custody for the children. The evidence clearly and convincingly established that respondents' past failure to effectively manage their finances and secure adequate employment caused them to incur overdue utility bill balances that resulted in the shut off of critical services. In addition, there was a past failure by respondents to maintain a clean home and properly supervise the children.

The court also did not clearly err when it found that there was no reasonable expectation that respondents would be able to provide proper care within a reasonable time given the ages of the children (at the time of the termination hearing, Paige was six, Chase was almost four, and Tyee was one and a half years old). The testimony from the parent aide indicated that there was no significant change made from April through October 2007 when she worked with respondents on issues involving budgeting, home cleanliness, and supervision of the children. Similarly, a Families First family specialist who worked with respondents in September 2007 testified that there was no progress, and the Wraparound coordinator said there was no progress made in budgeting because there was insufficient income to pay the bills. The Wraparound coordinator also testified that she did not believe respondents were committed to making the changes necessary to provide proper care for the children. At the time of the termination hearing, respondent father worked part time and admitted lying to the court caseworker about his compliance with Michigan Works, while respondent mother was employed in a seasonal job and had been caught lying to the DHS caseworker about her compliance with Michigan Works. Although a social worker opined that respondents could, with continued services, provide a proper home for the children, this social worker admitted her work with respondents had not included budgeting. The income from respondent mother's seasonal job provided sufficient income for the family's expenses but not its overdue bills, and was not a permanent source of income. Respondent mother admitted she had not gone to Michigan Works as ordered since starting that seasonal employment. Given respondents' poor commitment to changing the family's finances and condition of the home, the trial court did not clearly err when it found that there was no reasonable expectation that respondents would be able to overcome their problems and parent the children within a reasonable time under subsection 19b(3)(g).

Termination was also proper under subsection 19b(3)(j) since the children would be at risk of emotional and psychological harm if subjected to a home that did not have critical utilities and was unsanitary. The children would also be at risk of physical harm if the unsanitary conditions promoted a disease.

Finally, the trial court did not clearly err in its best interests determinations under MCL 712A.19b(5). The parent aide said that one child seemed afraid of respondent father, who was described as having little interaction with the children. Respondent mother, on the other hand,

was described as a very loving parent who shared a strong bond with the children. However, respondent mother's failure to change the family's living conditions deprived the young children of the stability and permanence that they needed. In the opinion of the parent aide, respondent father hindered respondent mother's efforts to care for the children, and respondent mother admitted she had been told by DHS that she needed to choose between respondent father and the children. The fact that respondent mother remained with respondent father at the time of the termination hearing, and held out hope that the family could be reunited, showed that she chose to deny and evade responsibility for the severe problems affecting the family, rather than commit to changing them.

Affirmed.

/s/ David H. Sawyer

/s/ Brian K. Zahra

/s/ Douglas B. Shapiro